

P25032.A02



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : G. FINKELSHTAIN et al.

Confirmation No. 9110

Group Art Unit: 1746

Serial No : 10/796,305

Examiner: Unknown

Filed : March 10, 2004

For : SELF-CONTAINED FUEL CELL AND CARTRIDGE THEREFOR

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir :

In accordance with the duty of disclosure under 37 C.F.R. §§ 1.56, 1.97, and 1.98 and supplemental to the Information Disclosure Statement filed June 29, 2004, Applicants hereby call the following document to the attention of the Examiner in charge of the above-identified application:

United States Patent Application Publication US 2004/0175599 A1 (RICKS et al.),
September 9, 2004

A completed copy of the PTO-1449 Form listing this document is enclosed herewith.
Accordingly, the Examiner is requested to consider this document and to indicate such

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consideration by returning a signed and initialed copy of the PTO-1449 Form with the next official communication.

Further to the U.S. Patent and Trademark Office's decision to waive the requirement under 37 C.F.R. § 1.98 (a)(2)(I), a copy of the published U.S. patent application cited above is not enclosed herewith. However, if any copy is needed, the Examiner is respectfully requested to contact the undersigned.

Applicants respectfully submit that although the above-cited United States application was filed before the effective filing date of the present application, i.e., the filing date of provisional application 60/453,218 filed March 11, 2003, the cited application does **not** qualify as prior art under 35 U.S.C. § 102(e) in that it was expressly abandoned on March 28, 2003 (see enclosed copy downloaded from the public PAIR system of the U.S. Patent and Trademark Office). Accordingly, the cited application was no longer pending when the publication thereof took place (i.e., on September 9, 2004), which is contrary and in non-compliance with 35 U.S.C. § 122(b)(2)(A)(i). According to 35 U.S.C. § 102(e), a patent application qualifies as prior art if it was "published under section 122(b)". As set forth above, the cited application was not published under 35 U.S.C. § 102(e), but contrary thereto.

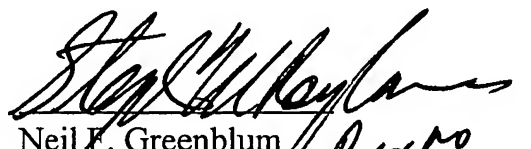
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Accordingly, the above-cited application does not fall within the provisions of 35 U.S.C. § 102(e).

Applicants note that an Office Action on the merits has not yet issued in the instant application, and thus, no fee is necessary to ensure consideration of this statement. However, if an Office Action has issued and is crossing in the mail with this statement, the Commissioner is hereby authorized to charge Deposit Account No. 19-0089 any fee necessary to ensure consideration of the submitted materials.

Should there be any questions regarding the above or the present application, the Examiner is invited to contact the undersigned at the below-listed number.

Respectfully submitted,
G. FINKELSHTAIN et al.


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September 20, 2004
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FORM PTO-1449

U.S. Department of Commerce
Patent and Trademark OfficeAtty. Docket No.
P25032Application No.
10/796,305INFORMATION DISCLOSURE STATEMENT
BY APPLICANT

(Use several sheets if necessary)

Applicant
Gennadi FINKELSHTAIN et al.Filing Date
March 10, 2004Group
1746

U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER							DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	2004/	0	1	7	5	5	9	9	09/09/04	RICKS et al.			

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER							DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION YES NO	

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

EXAMINER

DATE CONSIDERED

*EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609; draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

